

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

United States Court of Appeals  
Fifth Circuit

**FILED**

July 9, 2009

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No. 08-10699  
Summary Calendar

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Charles R. Fulbruge III  
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

LAZARO JUAREZ-MEJIA,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Northern District of Texas  
No. 3:08-CR-34-ALL

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Before SMITH, GARZA, and SOUTHWICK, Circuit Judges.

PER CURIAM:\*

Lazaro Juarez-Mejia appeals his sentence. He argues that the district court erred in assessing a sixteen-level increase under U.S.S.G. § 2L1.2(b)(1)-

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

(A)(ii) based on a finding that he had a prior conviction for a crime of violence (“COV”). He contends that his Indiana conviction of aiding attempted battery with a deadly weapon is not a COV, because it is neither an enumerated offense nor has as an element the use, attempted use, or threatened use of force.

This court reviews *de novo* the district court’s interpretation of the sentencing guidelines. *United States v. Cisneros-Gutierrez*, 517 F.3d 751, 764 (5th Cir. 2008). Although the statute of conviction does not specifically require the use of force, the prior conviction qualifies as a COV under § 2L1.2, because “the touching of an individual with a deadly weapon creates a sufficient threat of force to qualify as a crime of violence.” *United States v. Dominguez*, 479 F.3d 345, 348 (5th Cir. 2007). Therefore, the court did not err in assessing the increase.

The judgment is AFFIRMED.